

REGISTERED No. D. 221

The Gazette of India

EXTRAORDINARY
PART II—Section 3
PUBLISHED BY AUTHORITY

No. 82] NEW DELHI, MONDAY, APRIL 5, 1954

DELIMITATION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 5th April 1954

S.R.O. 1113.—In pursuance of sub-section (1) of section 9 of the Delimitation Commission Act, 1952 (LXXXI of 1952), a Final Order made by the Delimitation Commission, India, under sub-section (2) of section 8 of the said Act, in respect of the distribution of seats to, and the delimitation of, Assembly constituencies in the State of Ajmer is hereby published:—

FINAL ORDER NO. 10

WHEREAS the proposals of the Commission in respect of the distribution of the seats assigned to the Legislative Assembly of the State of Ajmer to territorial constituencies and the delimitation thereof in accordance with the provisions of sub-section (2) of section 8 of the Delimitation Commission Act, 1952, were published in the Gazette of India, Extraordinary, dated the 12th February, 1954:

AND WHEREAS all objections and suggestions received within the specified time have been considered at a public sitting held at Ajmer on the 13th March, 1954:

WE HEREBY determine that the territorial constituencies into which the State of Ajmer shall be divided for the purpose of elections to the Legislative Assembly of the State, the extent of each constituency, the number of seats allotted to each constituency and the number of seats, if any, reserved for the

Scheduled Castes in each constituency shall be as shown in the following Table:—

TABLE

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
	AJMER SUB-DIVISION			
1	Gagwana	Gagwana girdawar circle; and Shrinagar girdawar circle (excluding Rampura, Kanpura, Tihari and Dhal patwar circles)	2	1
2	Ramsar	Rampura, Kanpura, Tihari and Dhal patwar circles in Shrinagar girdawar circle; and Ramsar girdawar circle.	1	Nil
3	Derathu	Derathu girdawar circle (excluding Nasirabad cantonment).	1	Nil
4	Nasirabad	Nasirabad cantonment in Derathu girdawar circle	1	Nil
5	Jethana	Jethana girdawar circle [excluding the Istamrari villages mentioned in item (1) of the Appendix].	1	Nil
6	Pushkar	Such of the Istamrari villages in Jethana girdawar circle as are mentioned in item (1) of the Appendix; and Pushkar girdawar circle.	2	1
7	Ajmer City I	Wards Nos. 1, 2, 6 and 7 of Ajmer municipality.	1	Nil
8	Ajmer City II	Wards Nos. 8 to 12 of Ajmer municipality.	1	Nil

Serial No	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
9	Ajmer City III	Wards Nos. 3, 4, 5 and 21 of Ajmer municipality.	1	Nil
10	Ajmer City IV	Wards Nos. 13, 14, 15 and 32 of Ajmer municipality.	1	Nil
11	Ajmer City V	Wards Nos. 22 to 26 and 28 to 31 of Ajmer municipality.	2	1
12	Ajmer City VI	Wards Nos. 16 (including Military Area), 20 and 27 of Ajmer municipality.	1	Nil
13	Ajmer City VII	Wards Nos. 17, 18 and 19 of Ajmer municipality.	1	Nil
KEKRI SUB-DIVISION				
14	Bhinai	Bhinai girdawar circle [excluding the villages mentioned in item (2) of the Appendix].	2	1
15	Gocla	Such of the villages in Bhinai girdawar circle as are mentioned in item (2) of the Appendix; and such of the villages in Kekri girdawar circle as are mentioned in item (3) of the Appendix.	1	Nil
16	Kekri	Kekri girdawar circle [excluding the villages mentioned in items (3) and (4) of the Appendix].	2	1
17	Sawar	Such of the villages in Kekri girdawar circle as are mentioned in item (4) of the Appendix.	1	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	Seats reserved for Scheduled Castes
1	2	3	4	5
BEAWAR SUB-DIVISION				
18	Masuda	Istamrari Beawar girdawar circle [excluding the villages mentioned in item (5) of the Appendix].	2	1
29	Shyamgarh	Such of the villages in Istamrari Beawar girdawar circle as are mentioned in item (5) of the Appendix; and Shyamgarh, Suhawa, Delwara, Andhideori and Pakhriawas patwar circles in Shyamgarh girdawar circle.	1	Nil
20	Nayanagar	Shyamgarh girdawar circle (excluding Shyamgarh, Suhawa, Delwara, Andhideori and Pakhriawas patwar circles); and Nayanagar girdawar circle (excluding Jalia, Narbadkhera, Rajiawas, Atitmand and Gohana patwar circles and Beawar municipality).	1	Nil
21	Beawar Town North	Wards Nos. 1 and 5 to 7 of Beawar municipality.	1	Nil
22	Beawar Town South	Wards Nos. 2 to 4 and 8 of Beawar municipality.	1	Nil
23	Jawaja	Jawaja girdawar circle (excluding Badkochran, Dewatan, Surajpura and Lotiyana patwar circles); and Jalia, Narbadkhera, Rajiawas, Atitmand and Gohana patwar circles in Nayanagar girdawar circle.	1	Nil

Serial No.	Name of Constituency	Extent of Constituency	Total number of seats	— Seats reserved for Scheduled Castes
1	2	3	4	5
24	Todgarh	Todgarh girdawar circle; and Badkochran, Dewaran, Surajpura and Lotiyana patwar circles in Jawaja girdawar circle.	1	Nil

N. CHANDRA SEKHARA AIYAR,
Chairman

P. K. KAUL
S. SEN

NEW DELHI,
Dated the 5th April, 1954.

APPENDIX

AJMER SUB-DIVISION

(1)

Villages in Jethana girdawar circle

- | | |
|-----------------------|-------------------|
| 1. Richmalian | 9. Bharsuri |
| 2. Daulatpura Pagaran | 10. Nad |
| 3. Mewaria | 11. Par abpura |
| 4. Ratagarh | 12. Hanwantpura |
| 5. Karnos | 13. Rampura Dabla |
| 6. Dhunwaria | 14. Fatehpura |
| 7. Jetgarh | 15. Sethan |
| 8. Bakhatawarpura | 16. Pisangan |

KEKRI SUB-DIVISION

(2)

Villages in Bhinai girdawar circle

- | | |
|---|---|
| 1. Piproli | 12. Goela (including the hamlet
Sanodia and Digaria) |
| 2. Kesarpura | 13. Sholian |
| 3. Chanma | 14. Shergarh |
| 4. Rammaliyan (Reechmaliyan) | 15. Baori |
| 5. Ragunathgarh | 16. Barla |
| 6. Jotayan | 17. Shokla |
| 7. Keria | 18. Shokli |
| 8. Bargaon-Urf-Surkhand (including
the hamlet of Raghunath-
pura) | 19. Sarana |
| 9. Jadana | 20. Jaola |
| 10. Khandra | 21. Arwar |
| 11. Satolao | 22. Manoharpura |

(3)

Villages in Kekri girdawar circle

- | | |
|---|---|
| 1. Junia (including the hamlets of
Ambapura and Jalka Khera) | 6. Chhabaria |
| 2. Lassaria | 7. Deolia Khurd |
| 3. Dhunwalia | 8. Deogaon (including the hamlets of
Dhulia, Shambhupura and Dayal-
pura) |
| 4. Naiki | 9. Karonj |
| 5. Ekalsingha | |

(4)

Villages in Kekri girdawar circle

- | | |
|--|--|
| 1. Sawar (including the hamlets of Lachhmipura, Udaigar, Umedpura, Baneria and Onkar-pura) | 14. Bisundni |
| 2. Ghatyali (including the hamlet of Girwarpura) | 15. Kusaita (including the hamlet of Matalao) |
| 3. Sunderpura | 16. Piplia |
| 4. Kalera | 17. Chitiawas |
| 5. Chosla | 18. Partabpura |
| 6. Chandthali | 19. Jeetpura |
| 7. Bajta | 20. Rainagar |
| 8. Deokheri | 21. Jaswantpura |
| 9. Tankawas | 22. Nemhera |
| 10. Bhandawas | 23. Napakhara |
| 11. Modi | 24. Padlia |
| | 25. Khejri |
| 12. Rajpura | 26. Deoli (including the hamlet of Inderpura) |
| 13. Mehrukhard (including the hamlet of Madhopura) | 27. Deoligaon (including the hamlet of Borera) |

BEAWAR SUB-DIVISION

(5)

Villages in Istamrari Beawar girdawar circle

- | | |
|---|------------------|
| 1. Piplaj (including Apabai) | 14. Kirap |
| 2. Deogarh | 15. Ratangarh |
| 3. Kharwa (including the hamlets of Surajpura, Ranisagar, Ruparel, Rampura, Bhawani-pura, Gopalsagar, Gwardi, Gwardia, Jaswantpura, Chabrator, Pabuthan, Lahri, Madhogarh, Amritpura, Fatehgarh and Shobhapura) | 16. Bheronkhara |
| | 17. Manpura |
| 4. Sarnia | 18. Sabalpura |
| 5. Rudlai | 19. Moina |
| 6. Amargarh | 20. Harrajpura |
| 7. Lamana | 21. Karwai |
| 8. Liri | |
| 9. Kashipura | 22. Landi |
| 10. Mailan | 23. Bachpari |
| 11. Nasoon | 24. Bassi |
| 12. Mohanpura | 25. Bhawanikhara |
| 13. Motipura | 26. Dholadanta |
| | |
| | 27. Koompura |
| | 28. Chosia |
| | 29. Khimpura |

[No. 56/17/53.]

By Order,
P. S. SUBRAMANIAN,
Secretary.

The Gazette



of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 83] NEW DELHI, WEDNESDAY, APRIL 7, 1954

ELECTION COMMISSION, INDIA

NOTIFICATIONS

New Delhi, the 7th April 1954

S.R.O. 1114.—In exercise of the powers conferred by clause (d) of section 30 of the Representation of the People Act, 1951 (XLIII of 1951), the Election Commission hereby makes the following amendment in its Notification No. 100/1/7/53(2), dated the 8th March, 1954, namely—

In item (d) of the notification, for the words and figures "the 5th May, 1954", the words and figures "the 7th May, 1954" shall be substituted.

[No. 100/1/7/53.]

S. R. O. 1115.—In pursuance of rule 11 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1951, the following is published for general information :—

FORM 5

[Rules 10(3) and 11]

ELECTION TO THE HOUSE OF THE PEOPLE FROM FAZILKA SIRSA
CONSTITUENCY

LIST OF VALID NOMINATIONS

Final list of candidates for election

Serial No.	Name of Candidate	Address of Candidate	Symbol assigned to the candidate, if any
1	Iqbal Singh	House No. 662, Ward No. 8, Town Abohar.	Two bulls with a yoke on.
2	Bachittar Singh	Pleader, Ward No. 5, Fazilka.	Cycle.
3	Suhel Singh	C/o. S. Teja Singh Namdhari, Sirsa.	Camel.
4	Madhu Sudan Dass	Giddarbaha Tehsil Muktsar, District Ferozepore.	
5	Mast Ram	Kucha Buta Ram, Delhi Gate, Ferozepore City.	Tree.

NOTE.—The poll will be taken between the hours of 8 A.M. and 4 P. M. on 9th and 11th May, 1954, at the polling stations to be notified separately.

Place—Ferozepore.

Dated the 27th March, 1954.

S. VOHRA,
Returning Officer.

[No 100/1/11/54]

By order,
P. N. SHINGHAL, Secy

(587)

The Gazette of India



EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 84] NEW DELHI, WEDNESDAY, APRIL 7, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 2nd April 1954

S.R.O. 1116.—Whereas the election of Shri Jagan Nath, as a member of the Legislative Assembly of the State of Delhi, from the Roshanara constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Jaswant Singh, son of Shri L. Gulab Singh, 25/D, Kamla Nagar, Subzimandi, Delhi;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, DELHI

ELECTION PETITION No 10 of 1952

(Election Petition No. 205 of 1952 before the Election Commission)

Shri Jaswant Singh—*Petitioner.*

Versus

Shri Jagan Nath & Others—*Respondents.*

JUDGMENT

The petitioner Shri Jaswant Singh was one of the candidates for election to the Delhi State Legislative Assembly from the Roshanara Constituency. His nomination paper, however, was rejected by the Returning Officer on the ground that the age given in the said paper did not correspond with the age given in the electoral roll. The election was later fought out principally between the first respondent Shri Jagan Nath and the third respondent Shri Ram Pershad and the former was declared to have been duly elected. The petitioner contends that the rejection of his nomination paper by the Returning Officer was improper and the result of the election had been materially affected. He has consequently filed the present petition for a declaration that the election of the respondent Shri Jagan Nath from the above mentioned constituency is wholly void.

The respondent Shri Jagan Nath contends that the nomination paper of the petitioner was not improperly rejected and that, in any case, the result of the election had not been materially affected by the alleged improper rejection. He also contends that the petition is liable to be rejected as the same had not been presented within time and further that the provisions of section 117 of the Representation of the People Act had not been complied with.

The following issues were consequently framed:

1. Was the petitioner's nomination improperly rejected and the result of the election materially affected by such rejection?
2. Was the petition not presented within time?
3. Have the provisions of section 117 of the Representation of the People Act, 1951 not been complied with? What is the effect?

Issue No. 1.—Two objections had been taken before the Returning Officer regarding the validity of the nomination paper of the petitioner, (i) that the age given in the nomination paper was 40 as against 49 appearing in the electoral roll and (ii) that the petitioner had not mentioned the name of the election agent. The latter objection was over-ruled by the Returning Officer and so far as the former is concerned he passed the following order:—

“I have seen the English copy of the electoral roll which clearly shows the age as 49. In the Urdu copy of the electoral roll also the age is given as 49. Although there is a little disfigurement in the digit ‘9’ in the Urdu roll, but the English roll clearly verifies it as 49. Since the candidate has filled his age as 40, and has not had it corrected, I accept the objection regarding age.....”.

It appears to us that the Returning Officer was clearly in error in taking the view that he did. There is no provision requiring that the description of the candidate in the nomination paper should literally agree with the description given in the electoral roll. The provisions are sufficiently complied with if the nomination paper contains adequate particulars to identify the candidate concerned. In the case before us all other particulars were correctly mentioned in the nomination paper and excepting the discrepancy in age there was nothing to suggest that the candidate before the Returning Officer was not the person mentioned at serial No. 31786 in the electoral roll. The identity of the petitioner was in fact never seriously in doubt. A difference of a few years in the age as given in the nomination paper and that in the electoral roll is of no consequence, when the question of eligibility is not involved. The rejection, therefore, of the petitioner's nomination paper was improper.

The question as to whether the petitioner in such a case, after establishing that his nomination paper had been improperly rejected, must further establish that the result of the election had been materially affected, has been considered in a large number of cases by various Tribunals both before and after the passing of the Representation of the People Act, 1951. In most cases the view taken is that improper rejection of a nomination paper is such a grave irregularity that it gives rise to a presumption that the result of the election has been materially affected and that this presumption would require the strongest and most conclusive proof for its rebuttal. The Lucknow Election Tribunal in Election Petition No. 208 of 1952 (*Brij Naresh Singh versus Hon'ble Shri Thakur Hukam Singh and others*) reported in the *Gazette of India, Extraordinary*, dated 20th December 1952 Part II, Section 3 at page 1029, went further and held that the presumption in question is irrebuttable, and once improper rejection of a nomination paper is established, it follows as a necessary consequence that the election must be declared to be wholly void.

The matter was also considered by this Tribunal in a number of cases, particularly in Election Petition No. 2 of 1952 *Shri Hans Raj versus Prof. Ram Singh and others* and the view taken was that it was as irrelevant to raise the question of chances of success of the rival candidate before a Tribunal as it would have been before the Returning Officer. The law assumes that every citizen, otherwise qualified to stand for election, has an equal chance of success with every other candidate. There are no presumptions in favour of propertied people, philanthropists or candidates with a record of public service. Whether a particular candidate is or is not the fittest person to represent a certain constituency is for the voters of that constituency to determine by secret ballot and the law does not contemplate at any stage substitution of the verdict of the electorate by the opinion of a Tribunal. The evidence led in such cases by the successful candidate is generally to the effect that the successful candidate was a person of great influence in the locality, that he had a record of public service to his credit whereas the rival candidate was an unknown person and had done nothing to deserve the confidence of the electorate. Assuming these facts to be satisfactorily established in a particular case, it does not necessarily follow that the voters would prefer the former to the latter. Such a conclusion will have to be based on a series of assumptions which need not necessarily be correct. There is for example no legal basis for the assumption that the voters would vote in a normal

manner or in a manner which enlightened public opinion within or without the constituency would expect them to do. The electors have not unoften been known to have voted in a capricious or even wanton manner if only to spite the so called 'favourite'. There is, therefore, in such cases, no legally admissible data on which a Tribunal can base a conclusion as to the probable chances of success of a particular candidate against another. The fact of the matter is that an election held in circumstances in which one or more qualified candidates are prevented from contesting the same by reason of the improper order of a Returning Officer is not an election as contemplated by law and consequently must in the words of section 100 of the R.P. Act be declared "wholly void".

Our attention was, however, invited to two or three cases decided by Rajasthan Tribunals in which the petitioners had lost their case in spite of a finding in their favour that the nomination papers had been improperly rejected. We prefer to adhere to the view taken in Hans Raj's case referred to above. In any case the presumption, even if rebuttable, has not been rebutted by the respondent in the present case. The evidence is all of the nature indicated in an earlier portion of this judgment. The respondent, we were told, is the biggest property holder in the area. He is running a large number of charitable institutions. His family had opened a High School and a Dispensary and donated lakhs of rupees for charitable purposes. The witnesses have also stated that in the municipal election, which had preceded the elections to the State Assembly, the Jan Sangh had lost to the Congress and ever since their popularity had been on the decline. But the most important of these witnesses, viz. R.W. 3, an Hony. Magistrate I Class has deposed that the petitioner is very popular in the *Kamla Nagar* area. He has also deposed that the largest number of voters of Roshanara constituency live in *Kamla Nagar* area. Apart, therefore, from the legal aspect of the matter emphasized above the evidence led by the respondent is not of a conclusive character and it is not possible to find as a fact that the election had not been materially affected by the improper rejection of the nomination paper of the petitioner.

The issue is consequently decided in favour of the petitioner.

Issue No. 2.—This issue was not argued before us and there is nothing to show that the petition was not presented within time. It is consequently decided against the respondent.

Issue No. 3.—This issue was also not argued before us. The petition recites that a sum of Rs. 1,000 had been deposited with the Reserve Bank of India, *vide* challan No. 1025, dated 25th April 1952. The respondent on whom the onus lay has failed to establish that the amount had not in fact been deposited. This issue is also decided against the respondent.

In the result the petition is allowed and the election of the respondent Shri Jagan Nath is declared to be wholly void. As the order of the Returning Officer was not passed at the instance of the contesting respondent, we leave the parties to bear their own costs.

Announced in open Court.

(Sd.) GURDEV SINGH, *Chairman*.

(Sd.) DURGA PRASAD NAIR, *Member*.

(Sd.) PARSHOTTAM LAL, *Member*.

The 31st March 1954.

[No. 19/205/52-Elec.III/7610.]

By Order,
C. L. GOYAL, Asstt. Secy.

The Gazette of India

EXTRAORDINARY PART II—Section 3 PUBLISHED BY AUTHORITY

No. 85] NEW DELHI, WEDNESDAY, APRIL 7, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 2nd April 1954

S.R.O. 1117.—Whereas the election of Shri Mangal Dass, as a member of the Legislative Assembly of the State of Delhi, from the Aryapura constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Jaswant Singh, son of Shri L. Gulab Singh, 25/D, Kamla Nagar, Subzi-mandi, Delhi;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in Section 103 of the said Act, sent copy of its order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, DELHI

ELECTION PETITION No. 11 OF 1952

(Election Petition No. 206 of 1952 before the Election Commission)

Shri Jaswant Singh—*Petitioner*

versus

Shri Mangal Das & others—*Respondents*.

JUDGMENT

The petitioner Shri Jaswant Singh was one of the candidates for election to the Delhi State Legislative Assembly from the Arya Pura Constituency. His nomination paper, however, was rejected by the Returning Officer on the ground that the age given in the nomination paper did not correspond with the age given in the electoral roll. The election was eventually fought between the first respondent Shri Mangal Das and the third respondent Tikka Harbans Singh and the former was declared duly elected. The petitioner contends that the rejection of his nomination paper was improper and the result of the election has been materially affected by the said improper rejection. He consequently prays that the election of the first respondent be declared to be wholly void.

The first respondent contends that the petitioner is not competent to maintain the petition as he was not an elector in the constituency and was also not a duly nominated candidate. He maintains that the nomination paper had been properly rejected on the ground on which it was and further contends that the nomination paper was in any case liable to be rejected on the grounds that the petitioner had not filled in columns 7 and 8 of his nomination paper and he had also not deposited the sum of Rs. 250 along with the nomination paper.

The following issues were framed in the case:

1. Is the petitioner not competent to maintain the petition for the reason that he was not an elector in the constituency and also not a duly nominated candidate?
2. Was the nomination of the petitioner improperly rejected?
3. Was the nomination liable to be rejected on the grounds mentioned by the respondent in his written statement?
4. Was the result of the election materially affected by the improper rejection of the nomination?

Issue No. 1.—This issue was not argued before us. It is not necessary that a candidate must be registered as a voter in the constituency from which he is seeking election. The petitioner was registered as one in the *Chandrawal* constituency and this in law entitled him to stand from the Arya Pura constituency as well. The first issue is accordingly decided against the respondent.

Issue No. 2.—This issue relates to the rejection of the nomination paper on the ground of discrepancy in age as given in the nomination paper and in the electoral roll. The matter has been considered by us in Election Petition No. 10 of 1952 (*Shri Jaswant Singh versus Shri Jagan Nath & others*) which related to the rejection of the petitioner's nomination paper from the Roshanara Constituency on identical ground. We have held in that case that the nomination paper had been improperly rejected. For reasons given in our order in the above mentioned case, we think that the rejection of the nomination paper on the ground of discrepancy in age was improper. We have, however, still to consider if the nomination paper was not liable to be rejected on other grounds.

Issue No. 3.—The nomination paper Ex. R.1 before us shows that the petitioner had failed to fill up columns Nos. 7 and 8. Column 7 relates to the constituency in which the name of the candidate is included, while column 8 relates to the serial number of the candidate in the electoral roll of the constituency in which his name is included. The petitioner's contention is that he had failed to fill columns 7 and 8 in Ex. R.1 but these had been properly filled in a second nomination paper filed by him. This alleged second nomination paper is, however, not on the record. The Returning Officer, Mr. Mittal has deposed that only one nomination paper was filed by the petitioner and has also explained how in the first sentence of his order he had mentioned that two nomination papers had been filed. We were also referred in this connection to the statement Ex. R.2 which was prepared under the orders of the Returning Officer. This statement shows that the petitioner had filed only one nomination paper. It was urged that no reliance should be placed on this statement because there are several corrections therein. These, however, are explained by the fact that the clerk responsible for preparation of the statement in question had by mistake serialised as No. 4 the nomination paper which should have been serialised as No. 3. He had omitted to give No. 3 to any nomination paper with the result that the nomination papers serialised 4 to 28 had to be serialised as 3 to 27. There is nothing at all suspicious in the document in question and we have no hesitation in accepting the statement of the Returning Officer as conclusive on this point. The question, therefore, for consideration is as to whether the failure of the petitioner to fill in columns Nos. 7 and 8 of the nomination paper invalidates the same.

Pt. Nanak Chand, who appeared for the respondent, urged that the omissions are of such a grave character that the nomination paper must be held to be invalid. The nomination paper in question correctly gives the name of the petitioner, as also of his father. In column No. 5 the petitioner's address is given as plot No. 25D, house No. 6498, Kamla Nagar, Sabzimandi, Delhi. In the electoral roll for Sabzimandi the address entered is the same as in the nomination paper. It was urged on behalf of the petitioner that since his name as well as his father's name and his address had been correctly given in the nomination paper there could be no difficulty in finding out his serial number in the electoral roll of the constituency and the omissions, therefore, in the present case, were of a character which could and should be overlooked. In the repoted cases the view taken is that the provisions of the law are adequately complied with if a nomination paper contains sufficient particulars to identify the person concerned and a meticulous compliance with the rules is not necessary. The question is one to be decided on the facts of each case. A candidate may be so well known that omission to fill in all the particulars in the nomination form may not be calculated to raise in the least any doubt about his identity. On the other hand, a candidate may be a comparatively unknown person and there may also be in the same constituency others of the same name and it may be genuinely difficult in such a case to be sure of the identity of the candidate concerned. According to the evidence on the record the petitioner was at that

time connected as a member with the S.S. Jain Sabha of which he is now President. He was also connected with the local branch of the Jan Sangh. He was consequently a well known person in the locality and the circumstances suggest that there was never at any time any serious doubt in the mind of anybody about the identity of the petitioner.

The curious fact about the case before us is that on the one hand the objection regarding the petitioner's age was based on the entry against serial No. 31786 in the electoral roll, and on the other that the description of the petitioner as given in the nomination paper was not adequate to identify him with the person of the same name entered at No. 31786 in the electoral roll. In other words at the time the objection was raised with regard to the discrepancy in age, the petitioner's serial number as given in the electoral roll had already been brought to the notice of the Returning Officer and the rival candidates. It is difficult, therefore, in the circumstances to take the view that since there were genuine doubts about the identity of the petitioner his nomination paper was liable to be rejected on the grounds taken in the written statement. After all and in spite of the language used in section 36, sub-section 2(d) the description of the candidate is a means to an end and not an end in itself. The object in view is that there should be no ambiguity left in the minds of the electors as to the identity of the person who is standing as a candidate and if by reason of other description given in the nomination paper no such difficulty is likely to arise then the nomination paper cannot be rejected because the candidate had inadvertently omitted to mention certain particulars. The provisions of the law regarding the place where and the hours within which a nomination paper must be presented stand on a different footing. A Returning Officer has no jurisdiction to receive the same after the hours prescribed, nor has he jurisdiction to receive the same at a place other than that laid down by law. No question of jurisdiction is, however, involved if the Returning Officer accepts a nomination paper which is not complete in all respects.

The above aspect of the matter becomes further clear by reference to section 33(5) and section 36(4) of the Representation of the People Act, 1951. Section 33(5) lays down that on the presentation of a nomination paper the Returning Officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral rolls and the proviso to the above sub-section authorises the Returning Officer to permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected, in order to bring them into conformity with the corresponding entries in the electoral rolls. In the case before us the Returning Officer did not comply with the provisions of the above sub-section. If he had done so he would have allowed the petitioner to complete the Form in which case no difficulty would have arisen on the date of the scrutiny. Similarly section 36(4) enjoins that the Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character. The policy of the law obviously, therefore, is that the Returning Officers should struggle, so to say, to uphold a nomination paper and should not lend themselves to rejection thereof on technical grounds and we think we will be acting not only according to the spirit but also the letter of the law if we hold that the omission to fill in the name of the constituency in which the candidate is registered as a voter or to state the serial number of the petitioner's electoral roll does not invalidate the nomination paper.

In the above connection we would also like to emphasize the special circumstances of the present case. The petitioner had filed nomination papers from three constituencies, viz. Chandrawal constituency, Roshanara constituency and Arya Pura constituency. There were no blanks, it appears, so far as the nomination papers relating to the Chandrawal and Roshanara constituencies are concerned, although discrepancy in age was common to all the nomination papers relating to the three constituencies. The nomination paper with regard to the Chandrawal constituency which was taken up first went through since no objection was raised before the Returning Officer. When that relating to the Roshanara constituency was taken up it was rejected on the ground stated already, viz. that the age given in the nomination paper did not correspond with the age given in the electoral roll. The order in the case of Arya Pura constituency was passed without any further argument following the order in the case of Roshanara constituency. In consideration, therefore, of the fact that the nomination papers of the same person with respect to three different constituencies had been taken up one after the other by the same Officer, there was never any doubt in the mind either of the Returning Officer or of the rival candidates about the identity of the petitioner and the Returning Officer had rejected the nomination papers relating to Arya Pura and Roshanara constituencies only under a mistaken belief that he was bound to do so since no request had been made to him to correct the entry relating to age in the nomination paper so as

to make it correspond with the entry in the electoral roll. Having regard, therefore, to all these facts we are of the view that the omissions in the peculiar circumstances of the present case are not fatal, i.e. do not invalidate the nomination paper.

A further objection raised in the written statement is that the petitioner had not deposited the sum of Rs. 250 along with the nomination paper and for this reason also his nomination was liable to be rejected. This point was, however, not argued at the bar.

Issue No. 3 is accordingly decided against the respondent.

Issue No. 4.—The question as to whether a petitioner after establishing that his nomination paper had been improperly rejected must further establish that the result of the election had been materially affected, has been considered by us in the case of *Jaswant Singh versus Jagan Nath and others*, referred to above and we need only briefly recapitulate the arguments here. An election in which one or more qualified candidates are prevented from contesting the same by reason of the improper rejection of the nomination papers of such candidate or candidates is not an election as contemplated by law and consequently must in the words of section 100 of the R.P. Act be declared "wholly void". Some authorities no doubt lay down that improper rejection merely raises a strong presumption that the result of the election has been materially affected and that the presumption would require the strongest and most conclusive proof for its rebuttal, but we prefer to adhere to the view taken by this Tribunal in Election Petition No. 2 of 1952 *Hans Raj versus Prof. Ram Singh and others* that it is as irrelevant to raise the question of chances of success of the rival candidates before a Tribunal as it would have been before the Returning Officer. Section 90, sub-clause (3) of the Representation of the People Act lays down that the provisions of the Indian Evidence Act (1872) shall, subject to the provisions of the R.P. Act be deemed to apply in all respects to the trial of an election petition. When, therefore, an issue is raised before a Tribunal that a certain candidate would have had no chance of success even if his nomination paper had not been rejected the only material on which a Tribunal could give a finding one way or the other on an issue of this character would be the opinions of witnesses supposed to be conversant with the conditions prevailing in the constituency on or about the election date. The opinions of these witnesses about the chances of success would be based on a series of assumptions which may or may not be correct and to test the correctness of those assumptions would involve admitting of an amount of evidence which in the end would lead nowhere. The more correct view, therefore, appears to us to be that once improper rejection of a nomination paper is established it follows as a necessary consequence that the election must be declared to be wholly void and our view in this respect is in no way affected by two or three judgments recently given by certain Rajasthan Tribunals in which the presumption was held to have been rebutted by the respondents concerned. With all respect, we are of the view that the conclusion in these cases is based on the evidence which is legally inadmissible.

Assuming that the presumption is only a rebuttable one, we proceed to consider as to whether the respondent has succeeded in establishing that the result of the election had not been materially affected by reason of the improper rejection of the nomination paper. The evidence led by the respondent is to the effect that Tikka Harbans Singh was the person selected by the Jan Sangh to contest the election from this constituency, that the petitioner was a "covering" candidate only and that he, i.e. the petitioner, had never approached the voters in the constituency. R.W. 3, who was the President of the Refugee Association in 1951, has deposed that the displaced persons who formed a majority of the voters in the area were all supporting the respondent Shri Mangal Das. The petitioner has, however, denied that he was merely a covering candidate or that he never seriously intended to fight the election from this constituency. He has, however, admitted that he was a candidate from two other constituencies as well, that he had contested the election from the *Chandrawal* constituency and had lost to the Congress candidate.

We do not think we should attach any importance to the statement of R.W. 3, who had deposed about the mind of the refugees in the matter of their preference for a particular candidate. In the nature of things this gentleman could not have contacted thousands of refugees living in the locality and his opinion even if genuine must be based on impressions gathered from talks with some of the refugees only. The petitioner was at that time not in the field since his nomination paper had been rejected and the refugees had, therefore, no chance of expressing their mind to the witness about the relative merits of the petitioner and the respondent Shri Mangal Das.

Evidence of the character given by R.W. 3 is certainly not adequate to rebut the presumption arising in such circumstances in favour of the candidate wrongly excluded from contesting the election.

As regards the allegation that the petitioner never seriously intended to contest the election and that he had always intended to withdraw in favour of Tikka Harbans Singh if the nomination paper of the latter was not rejected, we note that no office bearer of the Jan Sangh has been produced in support of the above allegation. Even Tikka Harbans Singh was not produced. The petitioner, as noticed already, has denied the allegation. In these circumstances we are unable to hold that the petitioner had never intended to contest the election from this constituency nor would this fact, even if established, make any difference. The petitioner was entitled to change his mind at a later stage. He had three contiguous constituencies wherefrom he contested the election and he had the right to reserve his judgment till after the date of scrutiny. The fact that his nomination papers were rejected from two out of three constituencies left him with no alternative but to fight the election from the *Chandrawal* constituency and if he lost in that constituency it does not follow that he would have shared the same fate in the other two constituencies. Tikka Harbans Singh, the Jan Sangh candidate, had no doubt lost the election to the respondent, but that may have been due to reasons not connected with the party supporting him and it would be pure speculation to hold that since Tikka Harbans Singh had lost to the Congress candidate the petitioner would have lost as well.

For all the above reasons, we decide issue No. 4 in favour of the petitioner and accepting the petition declare the election of the respondent Shri Mangal Das to be wholly void. Having regard to all the circumstances of the case we leave the parties to bear their own costs.

Announced in open Court

(Sd.) GURDEV SINGH, *Chairman,*
Election Tribunal, Delhi.
(Sd.) DURGA PRASAD NAJR, *Member,*
Election Tribunal, Delhi.
(Sd.) PARSHOTAM LAL, *Member,*
Election Tribunal, Delhi.

The 31st March, 1954.

[No. 19/206/52-Elec.III/7613.]

By Order,
C. L. GOYAL, *Asstt. Secy.*

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

N o. 86] NEW DELHI, WEDNESDAY, APRIL 7, 1954

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd March 1954

S.R.O. 1118.—Whereas the election of Shri Raj Narayan, as a member of the Legislative Assembly of the State of Uttar Pradesh from the Banaras South constituency of that Assembly, has been called in question by an Election Petition duly presented under Part VI of the Representation of the People Act, 1951 (XLIII of 1951), by Shri Thakur Prasad son of Shri Vasishtha Narayan, Village and P.O. Jakhini of Pargana Kaswar Sarkari, Tehsil and District Banaras;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of Section 86 of the said Act for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL AT ALLAHABAD

ELECTION PETITION No. 244 OF 1952

PRESENT:

Sri V. G. Oak, I.C.S., *Chairman.*

Sri N. N. Mukerji, *Member.*

Sri Babu Ram Avasthi, *Member.*

Sri Thakur Prasad—*Petitioner.*

Versus

Sri Raj Narain & others—*Respondents.*

JUDGMENT

This is an election petition by Sri Thakur Prasad challenging the election of Sri Raj Narain to the U.P. Legislative Assembly in 1952 from Banaras (South) Constituency. The petitioner is an elector in the said constituency. The ten respondents were nominated as candidates for election from this constituency. Respondents No. 7 to 10 withdrew their nominations within the prescribed time. Respondents No. 1 to 6 remained in the field. A poll was taken on 25th January 1952. Result of the election was announced on 18th February 1952. Sri Raj Narain, respondent No. 1, was declared to have been elected. It is alleged in the petition that, there was no free election on account of corrupt practices of bribery and undue influence committed by respondent No. 1. Respondent No. 1 submitted a false return of election expenses. Many illegalities were committed in conducting the election. For these reasons the election of respondent No. 1 is void.

According to the petitioner, respondent No. 1 paid Rs. 1,200 to Sri Shiva Ram Singh, respondent No. 6 in order to induce him to withdraw from the contest. Secondly, there was a criminal case against Purshottam and others. In order to secure the votes of those accused, respondent No. 1 promised that he would give evidence for them and get all of them acquitted. Thirdly, there was a case under Sec. 107, Cr. P. C. against Jamuna and others. Their votes were captured by respondent No. 1 by promising them that, he would write to the District Magistrate of Banaras to save them from the criminal proceedings. In pursuance of that promise Sri Raj Narain wrote letters to the District Magistrate. Fourthly, the principal of Jagatpur Higher Secondary School influenced the staff of the school and guardians and parents of students to vote for respondent No. 1 with the inducement that the students would be given freships.

Again, respondent No. 1 submitted a false return of election expenses in as much as he did not show in his return the sum of Rs. 1,200 paid by him to respondent No. 6. Ballot boxes used in the election were defective. The procedure laid down in different rules framed under R.P. Act, 1951 was not followed. The petitioner, therefore, prayed for declaration that, the election of respondent No. 1 is void.

The petition was contested by Sri Raj Narain, respondent No. 1. He denied all the charges of bribery and undue influence made against him in the petition. He denied having paid Rs. 1,200 to Sri Shiva Ram Singh, respondent No. 6. It was denied that respondent No. 1 held out hopes to Purshottam and other accused that he would get them acquitted. It was denied that respondent No. 1 induced Jamuna and others to vote for him with the promise that, Sri Raj Narain would write to the District Magistrate to save them from criminal proceedings. It was denied that the principal of Jagatpur Higher Secondary School influenced members of the staff or guardians and parents to vote for respondent No. 1. It was pleaded that respondent No. 1 is not aware whether ballot boxes were defective as alleged. Even if that allegation is correct, the defect did not affect the result of the election. It was denied that any irregularities were committed by the election staff in conducting the election. In the alternative, it was pleaded that such irregularities did not materially affect the result of the election. According to respondent No. 1, 471 votes polled for him on ballot papers meant for election to the House of the People were improperly rejected by the Returning Officer. Finally, it was pleaded that respondent No. 1 took care to avoid the commission of corrupt practices, and had given instructions to his workers and agents to that effect.

Shri Ram Adhar, respondent No. 7, filed a separate written statement. He pointed out that respondent No. 7 was a dummy candidate on the socialist Party ticket. As Shri Raj Narain Singh's nomination paper was held valid, Shri Ram Adhar respondent No. 7 withdrew his candidature within the prescribed time. It was conceded that the allegations made in the election petition did not concern respondent No. 7. Various allegations were made against Shri Rishi Narain, respondent No. 2 in the written statement of Shri Ram Adhar, respondent No. 7. Lastly, it was pleaded that verification of the petition is not according to law, and certain schedules of the petition are not verified at all. So the petition is liable to be dismissed.

These pleadings gave rise to the following issues:—

ISSUES

1. Is respondent No. 1 guilty of bribery as detailed in Schedule I?
2. Is respondent No. 1 guilty of undue influence as detailed in Schedules I & II?
3. Whether respondent No. 1 submitted a false return of election expenses by omitting the item of Rs. 1200/- mentioned in paragraph (15) of the petition?
4. Did the election staff commit the irregularities and illegalities detailed in schedule V? Did these irregularities and illegalities materially affect the result of the election?
5. Is respondent No. 1 entitled to be condoned for reasons given in paragraph (17) of his written statement?
6. Is the verification of the petition not according to law? Is the petition liable to be dismissed for non-compliances of Section 83 R. P. Act, 1951, on account of defective verification of the petition and want of verification of the Schedules?
7. To what relief, if any, is the petitioner entitled?

It may be pointed out at the outset that, this is an election petition by an elector of the constituency. The petitioner was not a candidate for the election. Shri Rishi Narain was the candidate set up by the Congress Party. Shri Raj Narain, respondent No. 1, was a candidate on behalf of the Socialist Party. It has been alleged in the written statement of respondent No. 7 that, although the petition has been filed in the name of Shri Thakur Prasad, Shri Rishi Narain, respondent No. 2 is virtually the petitioner. The petition has been filed in accordance with a scheme evolved by Shri Thakur Prasad, Shri Rishi Narain, respondent No. 2, and Shri Shiva Ram Singh respondent No. 6. There is no prayer in the petition that, any particular candidate should be declared duly elected. Since Shri Raj Narain respondent No. 1 is the principal respondent, Shri Raj Narain will hereinafter be referred to as the respondent.

FINDINGS

Issue No. 1.—This issue deals with the charge of bribery as detailed in Schedule I. Three separate incidents have been alleged in Schedule I. The first incident relates to the payment of Rs. 1,200 to Sri Shiva Ram Singh respondent No. 6. The petitioner's case is that the backward community forms a majority of electors in this constituency. Kurmis form 40 per cent. of the population in the constituency. Sri Shiva Ram Singh is a Kurmi. He has done a good deal of social work for the backward community. He had great influence in the constituency. So, there was good chance of his success in the election. But pressure was brought upon him to make him withdraw from the election. Sri Raj Narain and Ram Adhar Singh approached one Bhaggal Ram of village Ghamhapur in the first week of December, 1951, and requested him to induce Sadho Chowdhary to use his influence to make Sri Shiva Ram Singh withdraw from the contest. So, a meeting was held at the door of Sadho Chowdhary at village Nagepur about the 8th of December, 1951. In this meeting Sri Shiva Ram Singh was advised to withdraw from the election. It was decided that Sri Shiva Ram Singh should accept from Sri Raj Narain all the expenses that had been incurred by Sri Shiva Ram Singh in connection with the election, and withdraw from the election. Sri Shiva Ram Singh's election expenses came to Rs. 1,200. On 12th December 1951 Sri Raj Narain paid Sri Shiva Ram Singh Rs. 1,200 at the latter's residence in village Chuppepur. Sri Vishwanath Sharma, who is a Socialist worker, wrote out a draft for publishing Sri Shiva Ram Singh's withdrawal from the election. Sri Shiva Ram Singh's withdrawal from the election was published in the daily newspaper "Aj" of Banaras dated 20th of December, 1951. On 13th December 1951 a meeting was held at village Bhairon-ka-Tal. In this meeting it was announced that, Sri Shiva Ram Singh had withdrawn from the contest after receiving election expenses from Sri Raj Narain. Another meeting for the same purpose was held at village Bahoranpur on 16th December 1951. In this meeting also Sri Raj Narain announced that he had obtained Sri Shiva Ram Singh's withdrawal.

The first witness on this point is Krishna Deo Upadhaya (P.W. 1). He is a resident of village Dih Ganjari. He is a B.A. LL.B. He is convener of the District Bhoodan Samiti, and gets a salary of Rs. 100 p.m. He stated that he was present at the meeting held at Bhairon-ka-Tal. It was gathered from Sri Raj Narain's Pattidar Shakal Narain that, Sri Shiva Ram Singh had been paid Rs. 1,200 and was withdrawing from the election. Although Shakal Narain is dead, his alleged statement in the meeting is not admissible in evidence. Formerly Krishna Deo Upadhaya was in the Congress. Then he joined K.M.P. Party. Later, he rejoined the Congress. Probably his sympathy is still with the Congress. The witness had no talk with Sri Shiva Ram Singh in connection with his withdrawal at any place. Krishna Deo Upadhaya did not hear any proceedings in the meeting itself. There were Kurmi candidates for other constituencies of Banaras district. Those Kurmi candidates also lost in the election.

The second witness on this point is Raghunandan Prasad (P.W. 2). He is a resident of village Bahoranpur. He is Sabhapati of the village. He has given evidence about the two meetings at Bhairon-ka-Tal and Bahoranpur. Ex. 91 is a leaflet distributed for announcing the meeting held at Bahoranpur on 16th December 1951. Ex. 91 purports to have been issued by eight persons. Raghunandan Prasad is one of the signatories of Ex. 91. The witness stated that Sri Raj Narain announced in these meetings that, people should vote for him, as he had obtained Sri Shiva Ram Singh's withdrawal. Raghunandan Prasad said that Sri Shiva Ram Singh did not attend the meeting on the 16th. According to the petitioner, the main object of the meeting at Bahoranpur was to announce Sri Shiva Ram Singh's withdrawal. If that were the case, Sri Raj Narain would have insisted on Sri Shiva Ram Singh's attending the meeting at Bahoranpur. In his examination-in-chief, Raghunandan Prasad referred to the meeting at

Bhairon-ka-Tal. But in cross-examination he admitted that, he did not attend the meeting at Bhairon-ka-tal.

Hridaya Narain Singh (P.W. 12) is another witness on this point. He described how Sri Raj Narain induced Sri Shiva Ram Singh to withdraw from the contest. This witness is a resident of Harduttpur. He said that Kurmis of his circle would have voted for Sri Shiva Ram Singh had he been in the field. The witness is a Bhoomidhar. He said that he did not work for any candidate in the election. It is not clear how he came to gather so much information about Sri Shiva Ram Singh's withdrawal.

The most important witness on this part of the petitioner's case is Sri Shiva Ram Singh (P.W. 5). He has described how pressure was brought upon him through Sadho Chowdhary. Sri Shiva Ram Singh stated that he received Rs. 1,200 from Sri Raj Narain on 12th December 1951. Ex. 7 is Sri Shiva Ram Singh's return of election expenses. In Ex. 7 it is noted that Rs. 1,200 were received on 12th December 1951 from Sri Raj Narain Singh as contribution. This return of election expenses was filed on 10th April 1952. It was suggested on behalf of the respondent that, Sri Shiva Ram Singh introduced this fictitious item in his return of election expenses in order to create a ground for the election petition. Sri Shiva Ram Singh said that Sri Vishwanath Sharma obtained from him his signature on a withdrawal form. The last date for withdrawal was 30th November 1951. There was, therefore, little point in preparing a withdrawal form on 12th December 1951. Sri Sahdeo Singh, appearing for the petitioner, argued that there was a rumour that, time for withdrawal might be extended. That is why a withdrawal form was prepared on 12th December 1951. Under Section 37, R.P. Act, 1951, a notice about withdrawal has to be delivered either by a candidate or his proposer, seconder or election agent. Sri Vishwanath Sharma does not appear to have been proposer, seconder or election agent of Sri Shiva Ram Singh. So Sri Vishwanath Sharma could not make much use of a withdrawal form signed by Sri Shiva Ram Singh. Admittedly Sri Shiva Ram Singh was in the Congress Party, when he filed his nomination. He stated that he stood as an independent candidate, when he noticed that the Congress Party had ignored the claim of the backward community. He further stated that on 28th March 1952 he received from the Congress office the postcard (Ex. 9) calling for his explanation for working against the Congress. So on 3rd April 1952 he went to explain his position. The fact that he went to give an explanation on 3rd April 1952 suggests that, Sri Shiva Ram Singh still considers himself to be a member of the Congress Party. He did not get any personal notice that, he had been expelled from the Congress. Some of the witnesses for the petitioner suggested, that, after his withdrawal Sri Shiva Ram Singh helped Sri Raj Narain in the election. But Sri Shiva Ram Singh admitted that he did not help Sri Raj Narain in the election. Although Sri Shiva Ram Singh claims to have withdrawn from the contest, he attended the counting of votes. He secured 548 votes. Sri Shiva Ram Singh stated that he made a note in his note book about the payment of Rs. 1,200. But that note book was not produced before the Tribunal to prove the payment. Sri Shiva Ram Singh says that he discharged all his servants, after 13th December 1951. He however, conceded that he paid his clerk up to 19th December 1951 and his driver up to 31st December 1951. Diet allowance was paid to the driver for the whole of December, 1951. Sri Shiva Ram Singh has passed the School Leaving Certificate Examination. He is not a resident of Banaras (south) constituency. He admitted that he canvassed on caste lines. This conduct amounted to a minor corrupt practice under section 124(5), R.P. Act, 1951. According to the petitioner, the respondent is guilty of bribery under section 123(1) of the Act. If the petitioner's case is to be accepted, Sri Shiva Ram Singh would be guilty of receiving such an illegal gratification. The act would amount to a minor corrupt practice under section 124(3) of the Act. Sri Shiva Ram Singh's position is like that of an accomplice.

The petitioner has filed a draft (Ex. 8) written by Sri Vishwanath Sharma. The petitioner's case is that this draft (Ex. 8) was given by Sri Vishwanath Sharma to Sri Shiva Ram Singh for publication in a newspaper. Sri Vishwanath Sharma, who appeared before the Tribunal as D.W. 11, admitted having written the draft (Ex. 8). But he does not admit that the draft was prepared in connection with the payment of Rs. 1,200 as alleged by the petitioner. In this draft (Ex. 8) it is written that the Congress was neglecting the backward community. On the other hand, the Socialist Party had been attending to this question. Candidates of the Socialist Party were likely to solve the problems of the backward community. So Sri Shiva Ram Singh, on the advice of his friends, was withdrawing from the contest. It is to be noted that in this draft (Ex. 8) the Congress was condemned, and the Socialist Party was praised. Sri Shiva Ram Singh stated that he prepared another draft and sent it for publication. The

announcement was published in the "Aaj" dated 20th December 1951. Ex. 11 is the issue of "Aaj" dated 20th December 1951. Ex. 11 contains a news item to the effect that, an independent candidate had announced that he would not contest election. It was mentioned in the news item that, Sri Shiva Ram Singh had issued a statement that he had withdrawn from the contest upon the Congress and Socialist candidates' giving an assurance that they would protect rights and interests of the backward community. Sri Shiva Ram Singh stated before the Tribunal that, "Aaj" appears to have printed the substance of his announcement. It means that he issued a statement in December, 1951 that he had withdrawn his candidature, because the Congress and Socialist candidates were prepared to protect the interests of the backward community. It will be noticed that the statement contained in Ex. 11 places the Congress and the Socialist candidates on an equal footing. On the other hand the draft (Ex. 8) was against the Congress, and in favour of the Socialists. Sri Shiva Ram Singh did not explain why the draft (Ex. 8) and the publication (Ex. 11) differ in this important respect. The petitioner attached much importance to the leaflet (Ex. 91). According to the petitioner, this leaflet was issued on 15th December 1951, that is, after the payment of Rs. 1,200 on 12th December 1951. According to the respondent, the leaflet (Ex. 91) was issued some time before 12th December 1951. It was conceded on behalf of the respondent that, these leaflets were issued for announcing the meeting to be held at village Bahoranpur on 16th December 1951. At the top of the leaflet it was mentioned that people should give their votes for the two Socialist candidates, Sri Raj Narain and Sri Vishwa Nath Sharma. There is nothing in Ex. 91 to indicate that the meeting at Bahoranpur was especially called for announcing Sri Shiva Ram Singh's withdrawal from the contest. Ex. 91 merely contains allegations about the failure of the Congress party and the good record of Socialist candidates. It is usual for party candidates to issue such leaflets during an election campaign.

The respondent produced a large number of witnesses to disprove the charge of payment of Rs. 1,200. According to the petitioner, pressure was brought upon Shri Shiva Ram Singh through Sadho Chowdhary. The respondent produced Sadho Chowdhary as D.W. 1. His house is close to village Nagepur. It is common ground that, this man has got much influence among Kurmis. He denied having brought pressure upon Shri Shiva Ram Singh to withdraw from the contest. Sadho admitted that an election meeting was held at his door. He said that caste people advised Shri Shiva Ram Singh to withdraw, as he was not likely to get votes. Sadho admitted having canvassed for Shri Raj Narain. Sadho is an interested witness. He said that there was no election meeting for Sri Raj Narain at Bhairon-ka-tal. During Sadho's cross-examination the petitioner produced one letter, which is paper No. 236/A on the file. This document purports to be a letter written by Sadho Chowdhary to Roop Narain. The letter is undated. The letter makes a reference to the withdrawal by Shri Shiva Ram Singh after accepting Rs. 1,200 from Sri Raj Narain. Sadho Chowdhary denied having written this letter to Roop Narain. The letter purports to bear Sadho Chowdhary's signature. Sadho Chowdhary was asked to sign before this Tribunal. Paper No. 238/A is Sadho Chowdhary's signature made before the Tribunal. There is a good deal of resemblance between the signatures appearing in paper Nos. 236/A and 238/A. But it is difficult to say from a mere comparison of the two signatures that, the signature appearing on the disputed letter is Sadho Chowdhary's signature. It appears that Sadho Chowdhary is practically illiterate. He can just sign his name. So assuming that paper No. 236/A bears Sadho's signature, one cannot be sure that this letter was written with his knowledge or consent. Moreover, we fail to see how this letter found its way into the hands of the petitioner.

According to the petitioner, one Bhaggal Ram also played a part in making Shri Shiva Ram Singh withdraw from the contest. Bhaggal Ram appeared before the Tribunal as D. W. 9. He is Sarpanch and Sabhapati of the Goan Sabha of Hardattpur. He denied having put pressure upon Sadho Chowdhary in order to make Shri Shiva Ram Singh withdraw from the contest. Bhaggal Ram admitted that he addressed the meeting at Nagepur. He said that he opposed Shri Shiva Ram Singh's candidature, because he was an outsider and had done no work within the Constituency. The respondent and Bhaggal Ram both belong to the Praja Socialist Party. Bhaggal Ram admitted having worked for Shri Raj Narain in the election. Bhaggal Ram is an interested witness.

Shri Ram Adhar, respondent No. 7, was examined as D.W. 17. He said that Shri Shiva Ram Singh never withdrew from the contest, but was helping Shri Rishi Narain till the end. Shri Shiva Ram Singh's chances were poor, as he is a man of bad repute. Admittedly Shri Ram Adhar was a covering candidate for Shri Raj Narain. Shri Ram Adhar is a highly interested witness.

According to Shri Shiva Ram Singh's statement, Roop Narain and Shri Vishwanath Sharma were present at the place of payment of Rs. 1,200. The respondent produced Roop Narain and Shri Vishwanath Sharma, as D.Ws. 2 and 11. They both denied that any such payment took place in their presence. Roop Narain (D.W. 2) was a member of Banaras District Board. As regards the meeting at Nagepur, Roop Narain said that people in the meeting were saying that there were influential people in the Constituency, while Shri Shiva Ram Singh was an outsider. So it was difficult for him to get support. Roop Narain denied having received the letter (paper No. 236/A) from Sadho Chowdhary. Roop Narain admitted that Shri Shiva Ram Singh used to do social work. This constituency contains more Kurmis than people of any other single caste. Roop Narain admitted having helped a Socialist candidate Ram Narain against the Congress candidate. We may, therefore, assume that, Roop Narain's sympathy is for Shri Raj Narain.

Shri Vishwanath Sharma (D.W. 11) is Assistant Secretary of Kashi Vidyappith. At one time he was a member of All-India Congress Committee. Later he joined the Socialist Party. Shri Vishwanath Sharma belong to the same family. Obviously, this witness is deeply interested in Shri Raj Narain. But in view of his status, Shri Vishwanath Sharma's testimony carries weight. Shri Raj Narain examined himself as D.W. 12. He of course denied having made Shri Shiva Ram Singh withdraw from the contest, or having paid him Rs. 1,200 as alleged.

The respondent produced two witnesses in order to show that Shri Shiva Ram Singh is an unreliable bad person. Suleiman (D.W.5) stated that Shri Shiva Ram Singh is a man of no influence. He has been out-casted. He indulges in mal-practices. Suleiman is a retired police constable. These days he has been working as a cloth hawker. Shri Shiva Ram Singh lives at Chuppepur, while Suleiman lives at Gillet Bazar, Banaras, at a distance of 400 yards from Chuppepur. We do not attach much importance to Suleiman's statement. Bimal Deo Singh (D.W.13) also stated that Shri Shiva Ram Singh has been out-casted. He kept a Brahmin woman as a mistress, although his wife was alive. Bimal Deo said that Shri Shiva Ram Singh withdrew his candidature on account of domestic troubles. Bimal Deo is a resident of village Sikaul, which adjoins Chuppepur. According to Bimal Deo, Shri Shiva Ram Singh obtained one girl from an *Anathalaya* and sold her. She was of neuter sex. But Shri Shiva Ram Singh was not prosecuted. On the contrary Shri Shiva Ram Singh prosecuted the *Anathalaya*, for cheating.

The petitioner strongly relies upon the draft (Ex. 8). Shri Vishwanath Sharma (D.W. 11) admitted having written the draft (Ex. 8). But he explained that he did not write Ex. 8 in the circumstances mentioned by Shri Shiva Ram Singh. Shri Vishwanath Sharma's version is that he wrote Ex. 8 about the 15th or 16th of December, 1951. That day he had gone to court in connection with some cases. Shri Shiva Ram Singh went to Shri Vishwanath Sharma in the court compound, and started discussing the election. Shri Shiva Ram Singh said that he proposed to withdraw from the contest in view of his domestic troubles and other worries. He realized that an independent candidate had no chance. He asked Shri Vishwanath Sharma to prepare a statement on behalf of Shri Shiva Ram Singh. So Shri Vishwanath Sharma wrote out the draft (Ex. 8) at Shri Shiva Ram Singh's request. Shri Vishwanath Sharma said that the substance was given by Shri Shiva Ram Singh, but the language used in the Ex. 8 is Shri Vishwanath Sharma's. We have noticed that the draft (Ex. 8) contains a sentence favourable to the Socialist Party. It appears that Shri Vishwanath Sharma utilised this opportunity in order to make the draft favourable to the Socialist Party. It seems rather strange that Shri Shiva Ram Singh should have approached Shri Vishwanath Sharma to prepare a draft in connection with the withdrawal. During the cross-examination of Shri Shiva Ram Singh (P.W. 5) no suggestion was made that the draft (Ex. 8) was written in the court compound as stated by Shri Vishwanath Sharma. Another witness for the respondent on this point is Bhrigunath (D.W. 10). He deposed that he was present when Shri Shiva Ram Singh approached Shri Vishwanath Sharma and got the draft (Ex. 9) written by him. Bhrigunath works as a clerk of one pleader Shri Sankatha Prasad. Bhrigunath signed the nomination form (Ex. 92) for Shri Raj Narain. Bhrigunath appears to be interested in Shri Raj Narain.

According to the petitioner's evidence, Shri Raj Narain paid Rs. 1,200 to Shri Shiva Ram Singh at his residence at Chuppepur on the evening of 12th December 1951. Shri Raj Narain on the other hand stated that throughout the evening of 12th December 51 he was busy with a Kajli meeting (Poetic recital) in village Jakhnli. The respondent produced three other witnesses on this point. They are Ram Nath Misra (D.W.14), Narrottam Singh Vaidya (D.W.15) and Hridaya Narain Misra (D.W. 16). These three witnesses stated that Sri Raj Narain remained in the